

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALICE ESPINOZA (7),

Defendant.

NO. CR-05-2075-7-EFS

**ORDER DENYING, WITH LEAVE TO
RENEW, DEFENDANT ESPINOZA'S
MOTION TO DISMISS SUPERCEDING
INDICTMENT**

A hearing was held in the above-captioned matter on January 17, 2006. Defendant Alice Espinoza was present, represented by Ed Alden. Assistant United States Attorney Jane Kirk appeared on behalf of the United States. Before the Court was Ms. Espinoza's Motion to Dismiss Superseding Indictment as to Alice Espinoza (Ct. Rec. 823). After reviewing the submitted material and relevant legal authority and hearing oral argument, the Court was fully informed. This Order serves to supplement and memorialize the Court's oral ruling denying, with leave to renew, Ms. Espinoza's motion.

Ms. Espinoza asks the Court to dismiss the Superseding Indictment against her, maintaining the Government has no evidence to support the counts that relate to her: Count 1 (conspiracy), Count 8 (Maintaining a Place for Drug Trafficking in violation of 21 U.S.C. § 856(a)(2)), Count

21 (Use of Communication Facility in violation of 21 U.S.C. § 846 &
841(a)(1)), and Count 22 (Possession of Marijuana in violation of 21
U.S.C. § 843(b)). The Government highlights a Federal Rule of Criminal
Procedure 29 motion is the method by which Defendant can seek dismissal
of the indictment, noting a Rule 29 motion is appropriate only after the
Government has rested at trial.

The Court finds Defendant has failed to point to legal authority
allowing the Court to dismiss charges prior to trial; neither has the
Court found such authority. Accordingly, the Court finds Defendant's
dismissal motion is premature; Defendant may renew such motion when
appropriate under Rule 29 or upon the filing of a brief explaining the
Court's authority to dismiss charges prior to the Government resting at
trial. For these reasons, **IT IS HEREBY ORDERED:** Defendant Alice
Espinoza's Motion to Dismiss Superceding Indictment as to Alice Espinoza
(Ct. Rec. 823) is **DENIED**, with leave to renew.

IT IS SO ORDERED. The District Court Executive is directed to enter
this order and to provide copies to all counsel.

DATED this 17th day of January, 2006.

S/ Edward F. Shea
EDWARD F. SHEA
United States District Judge

Q:\Criminal\2005\2075.7.espinoza.dismiss.wpd